

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**CIVIL ACTION NO. 1:13-cv-10406-FDS**

**BRIAN T. PENNINGTON,**

**Plaintiff,**

**v.**

**UNIFIRST CORPORATION, A/D/B/A  
UNICLEAN CLEANROOM SERVICES,  
PREMIER ORTHOPAEDIC;  
SPORTS MEDICINE ASSOCIATES OF  
SOUTHERN NEW JERSEY, LLC  
A/T/A PREMIER ORTHOPAEDIC,  
PREMIER ORTHOPAEDIC  
ASSOCIATES SURGICAL CENTER,  
LLC; PROFESSIONAL PAIN  
MANAGEMENT ASSOCIATES AND  
VANNETTE PERKINS, M.D.**

**Defendants.**

**MDL No. 2419**

**Master Docket No. 1:13-md-2419-FDS**

**Honorable Rya W. Zobel**

**DEMAND FOR JURY TRIAL**

**AMENDED SHORT FORM COMPLAINT  
AGAINST UNAFFILIATED DEFENDANTS**

Plaintiff, Brian T. Pennington, complaining against the Defendants, alleges as follows:

**FIRST COUNT**

1. Pursuant to MDL Order No. 7, entered in In Re: New England Compounding Pharmacy, Inc. Products liability Litigation, Master Docket No. 1:13-md-2419-FDS, the undersigned counsel hereby submits this Amended Short Form Complaint and Jury Demand against the Defendants, and adopts and incorporates by reference the allegations in the Plaintiffs' Master Complaint, with attachments, and any and all amendments thereto.

2. Plaintiff is a resident of the State of New Jersey.

3. Plaintiff brings this action:

☒ On behalf of herself/himself.

☐ As the representative of \_\_\_\_\_, who is a living person.

☐ As the Administrator, Administrator ad Prosequendum, or other representative of the Estate of \_\_\_\_\_ (hereinafter "Decedent"), who died on \_\_\_\_\_.

4. Plaintiff asserts that the Plaintiff was administered New England Compounding Pharmacy, Inc. ("NECC") drug Methylprednisolone Acetate (hereinafter referred to as "NECC drug"), causing injuries and damages.

5. The aforesaid administration of the NECC drug occurred on September 10, 2012, administered by Vannette Perkins, M.D. at Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC, also trading as Premier Orthopaedic and Premier Orthopaedic Associates Surgical Center, LLC located in Vineland, New Jersey.

6. Dr. Perkins and Professional Pain Management Associates, Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC, also trading as Premier Orthopaedic and Premier Orthopaedic Associates Surgical Center, LLC, are hereinafter collectively referred to as "Clinic Related Defendants."

7. Plaintiff adopts and incorporates by reference the following Causes of Action asserted against the Defendants in the Master Complaint:

☒ COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE  
(Against UniFirst)

☒ COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE  
(Against Clinic Related Defendants)

☒ COUNT IV: VIOLATION OF CONSUMER PROTECTION STATUTES  
(Against Clinic Related Defendants)

Plaintiffs allege violation of the following consumer protection statute:  
N.J.S.A. 56:8-1 *et seq.*

- ☒ COUNT VI: VIOLATION OF M.G.L. C. 93A  
(Against UniFirst)
- ☒ COUNT VII: BATTERY  
(Against Clinic Related Defendants)
- ☒ COUNT VIII: FAILURE TO WARN  
(Against Clinic Related Defendants)
- ☐ COUNT IX: TENNESSEE PRODUCT LIABILITY CLAIMS  
(Against Tennessee Clinic Related Defendants)
- ☒ COUNT X: AGENCY  
(Against Clinic Related Defendants)
- ☒ COUNT XI: CIVIL CONSPIRACY  
(Against Clinic Related Defendants)
- ☐ COUNT XII: WRONGFUL DEATH PUNITIVE DAMAGES  
(Against UniFirst and Clinic related Defendants)
- ☐ COUNT XIII: LOSS OF CONSORTIUM  
(Against UniFirst and Clinic related Defendants)
- ☒ COUNT XIV: PUNITIVE DAMAGES  
(Against UniFirst and Clinic related Defendants)

8. Plaintiff complied with N.J.S.A 56:8-20 by serving notice of this Amended Short Form Complaint on the Attorney General.

9. Plaintiff, Brian T. Pennington, claims to have suffered the following injuries as a result of the administration of NECC's drug(s): headaches, fevers, photosensitivity, left neck pain and left arm pain, extreme anxiety and mental anguish.

10. Plaintiff, Brian T. Pennington, claims to have suffered the following damages as a result of the administration of NECC's drug(s): pain and suffering; loss of life's pleasures; emotional distress; he has in the past and may in the future be compelled to spend money and

incur obligations for further medical care and treatment; he has in the past and may in the future continue to suffer with pain and mental anguish; he is at increased risk of contracting meningitis; he may suffer an impairment of his future earning capacity; he may in the future continue to be disabled from performing his usual duties and avocations, all to his great loss and detriment.

**WHEREFORE,** Plaintiff demands Judgment against the Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just.

Plaintiff reserves the right to amend this Complaint to add allegations and claims against individuals or entities currently omitted (in light of the Court's order permitting a Master Complaint naming defendants affiliated with NECC and currently participating in mediation by December 20) and to add or amend allegations against Defendants named herein based, in part, on further discovery.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury.

**Respectfully Submitted,**

**PLAINTIFF, BRIAN T. PENNINGTON,**

**By His Attorneys,**

**SALTZ, MONGELUZZI, BARRETT & BENDESKY**

/s/ Michael F. Barrett

MICHAEL F. BARRETT, ESQ.

MARY T. GIDARO, ESQ.

Date: September 19, 2014